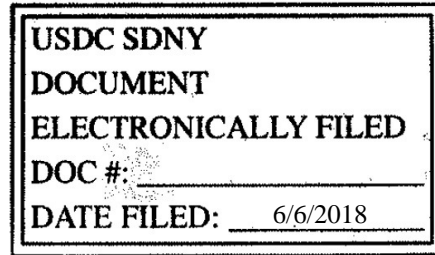


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
:
BRADLY MARKS, :
:
Plaintiff, :
:
-against- :
:
HIGHER RESPONSE MARKETING, INC., :
d/b/a MEDICAL ALERT KING, :
:
Defendant. :
-----X

17-CV-8780 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

Plaintiff Bradley Marks filed his complaint in the instant action on November 10, 2017, (Doc. 1), and on November 14, 2017, an electronic summons was issued, (Doc. 4), but no subsequent action was taken. On January 5, 2018, I issued an order directing Plaintiff to submit a letter explaining why this action should not be dismissed for failure to prosecute. (Doc. 5.) On January 9, 2018, Plaintiff filed his affidavit of service indicating that Defendant Higher Response Marketing, Inc. had been served and its answer to the complaint had been due on December 13, 2017. (Doc. 6.) On February 7, 2018, Plaintiff filed a request to enter default against Defendant with a supporting affirmation, (Docs. 9–10), and on the same day I issued an order directing Plaintiff to Attachment A of my Individual Rules, which governs the procedure for default judgments, (Doc. 8). The Clerk of Court entered a certificate of default on February 13, 2018, (Doc. 11).


Because Plaintiff did not take any action after the Clerk of Court issued a certificate of default, on April 5, 2018 I issued an order directing Plaintiff to submit an order to show cause pursuant to my Individual Rules on or before April 20, 2018. (Doc. 12.) On April 30, 2018, I

issued an order to submit an order directing Plaintiff to show cause as to its failure to prosecute on or before May 7, 2018. (Doc. 14). Plaintiff has failed to respond to either order or file any papers indicating an intent to prosecute this action regardless of express notice that further delay would result in dismissal.

Accordingly, this action is dismissed without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 632 (1962) (“The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an inherent power . . . necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” (internal quotation marks omitted)); *LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (“Although the text of Fed. R. Civ. P. 41(b) expressly addresses only the case in which a defendant moves for dismissal of an action, it is unquestioned that Rule 41(b) also gives the district court authority to dismiss a plaintiff’s case *sua sponte* for failure to prosecute.”). The Clerk of Court is respectfully directed to close this case.

SO ORDERED.

Dated: June 6, 2018
New York, New York


Vernon S. Broderick
United States District Judge